

**THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION**

Kirkendall Dwyer, LLP and John Doe,

Plaintiffs,

vs.

The South Carolina Commission on Lawyer  
Conduct and The South Carolina Office of  
Disciplinary Counsel,

Defendants.

Case No.: 3:20-cv-02192-JMC

**JOINT DISCOVERY PLAN  
PURSUANT TO FED. R. CIV. P. 26(f)**

Pursuant to Rule 26(f) of the Federal Rules of Civil Procedure, counsel for Plaintiffs Kirkendall Dwyer, LLP and John Doe (“Plaintiffs”), and counsel for Defendants The South Carolina Commission on Lawyer Conduct and The South Carolina Office of Disciplinary Counsel (“Defendants”) (collectively, “Parties”) conferred on September 21, 2020. The Parties jointly submit the following discovery report and plan:

**RULE 26(f) REQUIREMENTS**

**1. What changes should be made in the timing, form, or requirement for disclosures under Rule 26(a), including a statement as to when disclosures under Rule 26(a)(1) were made or will be made:**

**ANSWER:**

The Parties agree to submit their disclosures under Rule 26(a)(1) by October 12, 2020, and will further abide by the August 31, 2020, Scheduling Order for other Rule 26(a) deadlines set forth therein.

**2. The subjects on which discovery may be needed, when discovery should be completed, and whether discovery should be conducted in phases or be limited to or focused upon particular issues:**

**ANSWER:**

The Parties submit that full discovery should be directed towards the facts and circumstances surrounding the claims and defenses set forth in the pleadings in this case and have submitted a proposed deadline in the Amended Scheduling Order submitted with their Joint Rule 26(f) Report. Discovery does not need to be conducted in phases or limited beyond customary discovery limitations set forth in the Federal Rules of Civil Procedure.

**3. Any issues relating to disclosure of discovery of electronically stored information, including the form or forms in which it should be produced:**

**ANSWER:**

Defendants anticipate that a dispute regarding the production of electronically stored information may arise to the extent that any discovery request from Plaintiffs invades the confidentiality provisions set forth in the South Carolina Rules of Professional Conduct and the Rules for Lawyer Disciplinary Enforcement. If any significant dispute arises regarding the production of electronically stored information, then the Parties agree to meet and confer regarding any such issue before seeking Court intervention.

**4. Any issues relating to claims of privilege or of protection as trial-preparation material, including—if the parties agree on a procedure to assert such claims after production—whether to ask the court to include their agreement in an order:**

**ANSWER:**

The Parties agree to assert claims of privilege or protection in writing when responding to written discovery and orally on the record when claiming a privilege or seeking protection during a recorded proceeding. The Parties will work in good faith to negotiate a reasonable, non-burdensome privilege-logging protocol and agree to comply with Federal Rules of Civil Procedure 26(b)(5) and 26(c), as well as Federal Rule of Evidence 502.

**5. What changes should be made in the limitations on discovery imposed**

**under these rules or by local rule, and what other limitations should be imposed:**

**ANSWER:**

The Parties agree to abide by the limitations imposed in the Federal Rules of Civil Procedure and the Local Civil Rules for the District of South Carolina.

**6. Any other orders that should be entered by the court under Rule 26(c) or under Rule 16(b) and (c):**

**ANSWER:**

The Parties will submit separately a proposed order to govern discovery materials in this action.

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